

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

DAVID E. WILSON,)
Petitioner,)
v.) Case No. 4:17-cv-00229-AGF
UNITED STATES OF AMERICA,)
Respondent.)

ORDER AND JUDGMENT

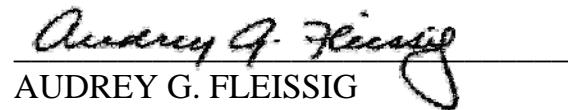
This matter is before the Court on Petitioner David E. Wilson's motion filed under 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence. The Court has reviewed the Government's Objections to the Resentencing Report, filed on May 9, 2018 in Petitioner's criminal case, 4:03-cr-00552-AGF (ECF No. 123). In its Objections, the Government agrees that, pursuant to the en banc decision of the United States Court of Appeals for the Eighth Circuit in *United States v. Naylor*, No. 16-2047 ("Naylor"), Petitioner no longer qualifies as an Armed Career Criminal. But the Government preserves its procedural objection that Petitioner is not entitled to successive habeas relief because his claims are not truly based on *Johnson v. United States*, 135 S. Ct. 2551 (2015), and are instead based on *Mathis v. United States*, 136 S. Ct. 2243 (2016). As the Government concedes, judges within this District have consistently rejected that argument. *See, e.g., Holman v. United States*, No. 4:16 CV 838 CDP, 2017 WL 2438821, at *2 n.1 (E.D. Mo. June 6, 2017).

The undersigned likewise overrules the Government's Objections and concludes that no further briefing is necessary with respect to Petitioner's §2255 motion;¹ the Court will grant Petitioner's motion. Petitioner will be resentenced by separate order in his criminal case, and an amended judgment will be entered in that case.

Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that David E. Wilson's motion filed under 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence is **GRANTED**. ECF No. 1.

IT IS FURTHER ORDERED that the Clerk of Court shall file a copy of this Order and Judgment in Petitioner's criminal case, No. 4:03-cr-00552-AGF.


AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 11th day of May, 2018.

¹ The supplemental briefing schedule proposed by the parties and adopted by the Court on April 25, 2018 (ECF No. 15) is therefore vacated.